

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

IN RE:)	
)	
PATHNET OPERATING, INC.,)	Case No. 01-12266-SSM
)	
Debtor.)	Chapter 7
)	
GORDON P. PEYTON, CHAPTER 7)	
TRUSTEE FOR PATHNET OPERATING,)	
INC.,)	
)	Adv. Pro. No. 03-1149
Plaintiff,)	
)	
v.)	
)	
BUTCH MAKI & ASSOCIATES)	
)	
Defendant.)	
)	

TO: THE CLERK OF THE UNITED STATES BANKRUPTCY COURT

REQUEST FOR ENTRY OF DEFAULT

Defendant Butch Maki & Associates ("Defendant"), having been served with the Summons and Complaint on April 21, 2003, has failed to file a pleading that satisfies the requirements of Local Rule 2090-1(F) of the United States Bankruptcy Court for the Eastern District of Virginia and therefore has failed to plead or otherwise defend in this action. As the time for appearance has expired, Plaintiff hereby requests, pursuant to Federal Rule of Civil Procedure 55 and Federal Rule of Bankruptcy Procedure 7055 and on the grounds set forth in the

Declaration submitted with this request, that the Clerk enter the default of said Defendant.

DATED this 31st day of July, 2003.

Respectfully submitted,

PIPER RUDNICK LLP

/s/ J. David Folds

J. David Folds VSB # 44068
1775 Wiehle Avenue, Ste. 400
Reston, VA 20190
(703) 773-4155

Counsel for Plaintiff

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INC.,)	
)	Adv. Pro. No. 03-1149
Plaintiff,)	
)	
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)	
BUTCH MAKI & ASSOCIATES)	
)	
Defendant.)	
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DECLARATION IN SUPPORT OF REQUEST FOR ENTRY OF DEFAULT

I, J. David Folds, declare as follows:

1. I am an attorney licensed to practice in the Commonwealth of Virginia and before this Court. I am an associate with Piper Rudnick LLP, counsel for Gordon P. Peyton, Chapter 7 Trustee for Pathnet Operating, Inc. ("POI"), the Plaintiff in this matter. I submit this Declaration in support of the Request for Entry of Default.

2. On March 28, 2003, the Trustee commenced this adversary proceeding by filing a Complaint against Butch Maki & Associates with the United States Bankruptcy Court for the Eastern District of Virginia (the "Bankruptcy Court"). A summons was issued on April 3, 2003.

3. Defendant Butch Maki & Associates (the “Defendant”), upon information and belief, is a business located in Santa Fe, New Mexico.

4. On April 13, 2003, service was made on the Defendant by mailing a copy of the summons and complaint, via first class mail, postage prepaid, to Butch Maki & Associates c/o Butch Maki, Registered Agent, 118 West San Mateo Road, Santa Fe, NM 87505.

5. On May 2, 2003, Butch Maki & Associates submitted an Answer to the Bankruptcy Court. The Answer was signed by Thomas G. Rice, Thomas G. Rice P.C., 201 3rd Street, NW, Ste. 1600, Albuquerque, NM 87102.

6. On May 7, 2003, the Clerk of the Bankruptcy Court issued a deficiency notice (the “Deficiency Notice”) to Mr. Rice indicating that the pleading was “filed on behalf of an entity not a natural person acting on own behalf and not signed by counsel permitted to appear under LBR 20901-1.”

7. Neither Defendant nor Mr. Rice have filed anything with the Court since the issuance of the Deficiency Notice.

8. More than thirty days have elapsed since the issuance of the Summons.

I declare under penalty of perjury that the foregoing is true and correct.

Reston, VA
July 31, 2003

/s/ J. David Folds
J. David Folds

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed, postage prepaid, and electronically, as available, this 31st day of July, 2003 upon:

Butch Maki & Associates
Butch Maki, Registered Agent
118 West San Mateo Road
Santa Fe, NM 87505

Thomas G. Rice, Esq.
Thomas G. Rice P.C.
201 3rd Street, N.W., Ste. 1600
Albuquerque, NM 87102

/s/ J. David Folds

J. David Folds

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v.)	
)	
BUTCH MAKI & ASSOCIATES)	
)	
Defendant.)	
_____)	

ENTRY OF DEFAULT

The Default of Defendant Butch Maki & Associates is hereby entered.

Dated this ____ day of _____, 2003.

Clerk, U.S. Bankruptcy Court

I ask for this:

/s/ J. David Folds
J. David Folds
Counsel for Plaintiff